

<p style="text-align: center;"><b>Residential Landlord-Tenant</b> <b>Guidelines to Filing of Unlawful Detainer Actions</b> <b>IN THE DISTRICT COURT OF RUSSELL COUNTY, AL</b></p>
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**UNLAWFUL DETAINER ACTIONS**

Remedy for eviction in a landlord tenant relationship  
Property must be located in Russell County, Alabama

**INITIATED BY FILING A COMPLAINT**

Form No. C-59

May sue for possession of property and for money damages in the same action

Filing Fee: \$ 235.00

Additional Plaintiff 50.00

Additional Defendant 15.00

No fee for counterclaim

**WHO MAY FILE ACTIONS**

Self-representing individual or an attorney licensed in the State of Alabama

Corporations required to retain legal representation

Recommended that individuals seek advice from an attorney

**JURISDICTION**

District Court – action of unlawful detainer/eviction in lease/rental agreement

**NOTICE TO TENANT**

Purpose of notice - to terminate tenancy rights

Must provide for right to cure

Only one notice required unless lease requires more

Seven (7) calendar days (day of notice not included) for failure to pay rent

Fourteen (14) calendar days notice for all other

Alabama law requires that case be ordered dismissed upon landlord's failure to meet notice requirements. Notice requirement cannot be cured after complaint is filed.

**SERVICE**

Personal service must be attempted for possession complaint.

If unable to make personal service, may be served by posting a copy on the premises

Sheriff/process server must also mail a copy of complaint to defendant by first class mail. (Title 6-6-332, Code of Alabama)

Complaint for money to be served in accordance with Rule 4, ARCP

**ANSWER**

Seven (7) business days to file an answer to complaint for possession of property

Fourteen (14) calendar days to file answer to money claim (if filed in the District Court)

**NO ANSWER FILED**

Default may be taken

Form No. C-25B

Filing fee of \$50.00 per application

## **DISMISSAL**

Motion to dismiss should be filed by plaintiff/attorney if case settles prior to court date

## **COURT APPEARANCE**

Court notices to all parties required to be mailed 14 calendar days prior to trial date

Parties are responsible for maintaining correct mailing address with Clerk's office

If plaintiff does not appear, case will be dismissed for want of prosecution

## **JUDGMENT**

Order entered by judge and forwarded to all parties by clerk

Default judgments and judgments not entered in open court - served on defendant(s)

## **APPEALS**

Order to vacate: Appeal time - Seven (7) business days from final/post judgment order

Monetary Judgment: Appeal time - Fourteen (14) calendar days

Form No. C-35

Post-trial motion extends the time for filing a Notice of Appeal

## **APPEAL BOND**

Amount set by District Court Judge

Based on past due rent and accruing rent

May be set by Circuit Judge when necessary

Cash bond MUST be posted with Clerk of Court to stay writ of possession

Affidavit of Substantial Hardship does not waive posting of bond to stay execution

## **ENFORCEMENT OF COURT ORDER**

Cannot be requested until after expiration of the time for filing of appeal/post-judgment motion

### Writ of Possession

Must be filed, in writing, by landlord for possession of property

No filing fee required

### Garnishment

Remedy for collection of money judgment

Form No. C-21

Filing fee: \$35.00

Must provide name and address of employer

### **Alabama law prohibits this office from giving legal advice.**

This information is provided for the purpose of explaining the guidelines and procedures of the Russell County Circuit Clerk in the filing of Unlawful Detainer /Eviction actions in the District Court and should in no way be construed as legal advice. Should you have any further questions or need additional information, you must seek legal advice from an attorney.

Forms available at: <http://eforms.alacourt.gov>

**You may qualify for free legal help.**

**Call Legal Services Alabama**

**1-866-456-4995**

## STATEMENT OF CLAIM

### Unlawful Detainer

Sections 6-6-310, et seq., Code of Alabama 1975

Case Number"

"

#### IN THE DISTRICT COURT OF RUSSELL COUNTY, ALABAMA

PLAINTIFF(S)

DEFENDANT(S)

ADDRESS:

ADDRESS:

PLAINTIFF'S ATTORNEY (If applicable):

ADDRESS:

#### COMPLAINT

1. Plaintiff(s) demands the right to possession from the defendant(s) of the following described residential, commercial or real property located at: \_\_\_\_\_
2. Defendant(s) no longer has the right to possession because: \_\_\_\_\_
3. Defendant(s)'s right of possession has been lawfully terminated by written notice.
4. Plaintiff(s) also claims the sum of \$ \_\_\_\_\_ plus court costs from the Defendant(s) consisting of : unpaid rent and late charges, plus attorney's fees (if applicable) and other charges.
5. Plaintiff(s) also claims future rent and late charges, plus attorney's fees (if applicable) and other charges accruing through the date Plaintiff(s) obtains possession of the above described property.
6. Plaintiff(s) also claims court costs in the amount of \$ \_\_\_\_\_

Kathy Coulter, Circuit Clerk  
501 14th Street  
Phenix City, AL 36867  
334-298-0516  
[kathy.coulter@alacourt.gov](mailto:kathy.coulter@alacourt.gov)

Plaintiff or Attorney (Signature)

Phone No. \_\_\_\_\_

Attorney Code \_\_\_\_\_

Email \_\_\_\_\_

#### NOTICE TO DEFENDANT(S) - READ CAREFULLY

This unlawful detainer complaint must be answered by you within seven (7) business days after these papers were either served or posted at the leased premises as provided by law. Your answer must be received by the Court Clerk at the above address within the above seven (7) business days. A copy of the answer must be sent to the Plaintiff(s) or Plaintiff(s)' Attorney at the above address. If you file an answer, a notice of trial will be mailed to you: otherwise, an unlawful detainer judgment may be entered against you. If you were personally served and fail to file an answer within fourteen (14) calendar days from the date of service, a money judgment may be entered against you.

<b>STATE OF ALABAMA</b> <b>Unified Judicial System</b> _____ County		Revised 3/23/05 <small>Check one (Not for Workers' Comp., PFA, or Small Claims cases):</small> <input type="checkbox"/> District Court <input type="checkbox"/> Circuit Court		► Case No. _____	
Style of case:  v. _____			<b>CIVIL MOTION COVER SHEET</b>  Name of Filing Party: _____		
Name, Address, and Telephone No. of Attorney or Party, If Not Represented:  Attorney Alabama State Bar No.: _____			To be filled out by Clerk of Court: <input type="checkbox"/> Filing Fee Charged and Collected (Amt \$ _____) <input type="checkbox"/> Filing Fee Not Required <input type="checkbox"/> Affidavit of Hardship on File or State Agency		
<b>Type of Motion (Check One)</b>					
<b>Motions Requiring Fee</b>			<b>Motions Not Requiring Fee</b>		
<input type="checkbox"/> Default Judgment (\$50.00) <input type="checkbox"/> Joinder in Other Party's Dispositive Motion (i.e. Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment (\$50.00) <input type="checkbox"/> Renewed Dispositive Motion (Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment Pursuant to Rule 56 (\$50.00) <input type="checkbox"/> Other _____, pursuant to Rule _____ (\$50.00)  * Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.  <input type="checkbox"/> Local Court Cost \$ _____   Hearing Date: _____			<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Revive Judgment <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input type="checkbox"/> Other _____, pursuant to Rule _____ (Subject to filing fee)		
Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government.		Date: _____		Signature of <b>Attorney or Party</b> : _____	

\* This Cover Sheet must be completed, signed **by the filing attorney or party**, and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\* Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.

# APPLICATION AND AFFIDAVIT FOR ENTRY OF DEFAULT JUDGMENT (FOR UNLAWFUL DETAINER)

Case Number

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, ALABAMA  
(Circuit or District) (Name of County)

Plaintiff

Defendant

I, affiant, request that the clerk of court, or judge, pursuant to Rule 55(b), Alabama Rules of Civil Procedure (ARCP), enter default against the above – named defendant,\* in the above case for the defendant's failing to plead, answer, or otherwise defend.

The affiant, \_\_\_\_\_, being duly sworn, states as follows:

1. That the affiant has personal knowledge of the facts set forth in the affidavit.
2. That the unlawful detainer complaint was served, or posted and mailed, on (date) \_\_\_\_\_.
3. That more than 7 days have elapsed since the unlawful detainer complaint was served, or posted and mailed as required by law.
4. That the defendant has failed to answer or otherwise defend against the plaintiff's Unlawful Detainer Complaint.
5. That this affidavit is executed by the affiant in accordance with Rule 55(b), ARCP, for the purpose of enabling the plaintiff to obtain a **default judgment for possession of the property, and money sued for, because of the** defendant's failing to answer or otherwise defend against the Plaintiff's unlawful detainer complaint.
6. That the defendant is not an infant or an incompetent person, and there has been no violation of the provisions of Ala. Code 1975, Chapter 19, Title 5.
7. That the defendant \_\_\_\_\_ is \_\_\_\_\_ is not in the military service.
8. Judgment Conditions: ☐ with ☐ without waiver of exemptions.
9. That the property made the basis of this unlawful detainer is described as follows:

10. Plaintiff has not accepted any rents or other payments since the termination of the rental agreement.
11. The termination notice with necessary proof of service and any written rental agreement are attached.
12. The monthly rental for this leasehold is the following sum: \$\_\_\_\_\_. Rent is due on the 1<sup>st</sup> of the month. The amount of rental that has accrued since filing to date is: \_\_\_\_\_.

Sworn To and Subscribed Before Me This

Date: \_\_\_\_\_

Officer's Signature

Title

Name of Attorney:

Signature of Attorney:

Business Address of Attorney:

City	State	Zip Code
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Plaintiff specifically requests that the Court defer rendition of a money judgment until that issue is ripe for jurisdictional and evidentiary adjudication.

## NOTICE OR STIPULATION FOR DISMISSAL

Case Number

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, ALABAMA  
(Circuit or District) (Name of County)

\_\_\_\_\_  
Plaintiff v. Defendant

### STIPULATION

It is hereby stipulated that the above styled action may be dismissed ☐ with ☐ without prejudice and costs taxed to  
☐ plaintiff ☐ defendant.

\_\_\_\_\_  
Signature of Plaintiff/ Attorney Date Signature of Defendant/ Attorney Date

\_\_\_\_\_  
Type Name of Plaintiff/Attorney Type name of Defendant/Attorney

### NOTICE

Please take notice that the above styled action is hereby dismissed.

\_\_\_\_\_  
Signature of Plaintiff/ Attorney Date Signature of Defendant/ Attorney Date

\_\_\_\_\_  
Type Name of Plaintiff/Attorney

### ORDER OF DISMISSAL

It is hereby ordered that the above styled case be dismissed ☐ with ☐ without prejudice and costs taxed to  
☐ plaintiff ☐ defendant.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

State of Alabama Unified Judicial System  Form C-59A  Rev. 6/07	<b>WRIT OF RESTITUTION OR POSSESSION</b> <b>(Forcible Entry and Unlawful Detainer Actions)</b>	Case Number
<p>IN THE _____ COURT OF _____, ALABAMA</p> <p>_____ Plaintiff v. _____ Defendant</p>		
<p>To any law enforcement officer of the above-named county in the State of Alabama:</p> <p>You are hereby commanded to restore the plaintiff (lessor) to possession of the land and tenements which the plaintiff recovered of the defendant (lessee) in an action of forcible entry and detainer before me on _____ (date) at _____ (description of land and tenements).</p> <p>You are further directed to recover the sum of \$ _____ from the goods, chattels, lands, and tenements of the defendant for costs on which the plaintiff has expended.</p> <p>_____ Date Judge/Clerk</p>		